

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0320
Sales and Use Tax
For the Years 2000-2002

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

I. Sales and Use Tax-Imposition of Use Tax

Authority: IC 6-8.1-5-1 (b), IC 6-2.5-3-2 (a).

The taxpayer protests the imposition of use tax on certain materials.

STATEMENT OF FACTS

The taxpayer is an Indiana corporation operating a chain of small convenience stores. After an audit, the Indiana Department of Revenue, hereinafter referred to as the "department," assessed additional use tax, interest, and penalty. The taxpayer protested a portion of the assessment. A hearing was scheduled on the taxpayer's protest. The taxpayer failed to appear or submit any documentation in support of its claim that the department improperly imposed use tax. Therefore this Letter of Findings is based on the documentation in the file.

I. Sales and Use Tax-Imposition of Use Tax

DISCUSSION

Indiana imposes an excise tax on tangible personal property stored, used, or consumed in Indiana when no sales tax was paid at the time of purchase. IC 6-2.5-3-2 (a). All tax assessments are presumed to be accurate. The taxpayer bears the burden of proving that any assessment is incorrect. IC 6-8.1-5-1 (b).

The taxpayer purchased equipment and materials to be used in its business. Most invoices for consumable supplies had sales tax paid at the time of purchase. Some invoices did not, however, indicate that sales tax had been paid at the time of purchase. The department assessed use tax on the taxpayer's use of these items. The taxpayer protested the assessments of use tax on materials

used in particular maintenance and repair jobs in its convenience stores. The taxpayer contends that sales tax was paid at the time of the purchase of the materials. Therefore the taxpayer contends that it does not owe use tax on the use of the items. The taxpayer failed, however, to provide any documentation supporting its contention. Therefore, the taxpayer did not sustain its burden of proving that the use tax was improperly imposed.

FINDING

The taxpayer's protest is denied.